



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,893	04/14/2004	Michael Fleisher	SFV 309	7307
23581 7590 12/28/2006 KOLISCH HARTWELL, P.C. 200 PACIFIC BUILDING 520 SW YAMHILL STREET PORTLAND, OR 97204			EXAMINER BARKER, MATTHEW M	
			ART UNIT	PAPER NUMBER
			3662	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/28/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/824,893	FLEISHER ET AL.	
	Examiner	Art Unit	
	Matthew M. Barker	3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 18-23, 34-36 and 42-45 is/are rejected.
- 7) ☒ Claim(s) 8-17, 24-33, 37-41 and 46-51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-7, 18-23, 34-36, and 42-45 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 recites the limitations "the first portion" and "the second portion" in lines 7 and 8. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7, 18-23, 34-36, and 42-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Keller et al. (US 2004/0140924).

Regarding claims 1, and 18, Keller discloses a method and system for surveilling a subject comprising transmitting electromagnetic radiation in the claimed range toward the subject; receiving radiation emitted from the subject in response to the transmitted

Art Unit: 3662

radiation; producing an image signal representative of the received radiation, the image signal including image data corresponding to a first image of at least a portion of the subject; determining whether the image data corresponding to the first image includes characteristics corresponding to an object on the person (See Abstract), and when characteristics corresponding to an object are found, determining the location of the object in the first image (See paragraphs 0080-0082 and Figure 10).

Regarding claims 2 and 19, Keller discloses producing image data corresponding to a second image of at least a portion of the first image including the location corresponding to image data including characteristics corresponding to an object (See Figure 10). The image of the man-made objects (215) is considered the claimed second image.

Regarding claim 3, it is unclear exactly what is meant by "the first portion" and "the second portion" (see the claim rejection under 35 U.S.C. 112 second paragraph above), however as best can be understood, Keller discloses the claimed use of a first and second antenna apparatus (See Figure 11; 236a and 236b).

Regarding claims 4, 20, and 44, Keller discloses a related method and computer program including the claimed image data having picture elements with different levels of intensity, and determining whether the image data has characteristics corresponding to an object through correlation of levels of intensity of groups of picture elements with the levels of intensity of an inherent corresponding reference group (paragraphs 0008-0009).

Regarding claims 5, 21 and 45, Keller discloses that determining a correlation of levels of intensity includes identifying at least a portion of the image data corresponding to which there is at least a threshold correlation of the levels of intensity of the picture elements with the levels of intensity in the reference group (paragraph 0068, lines 15-19).

Regarding claims 6-7 and 22-23, Keller discloses identifying a portion of the image data includes determining a correlation value of a given picture element as a function of the intensity level of one or more other picture elements arranged relative to the given picture element (paragraph 0068, lines 1-6).

Regarding claim 34, Keller discloses an imaging system, including the claimed antenna assembly, and claimed controller (see Figure 1).

Regarding claim 35, Keller discloses a related system including the claimed image data having picture elements with different levels of intensity, and determining a correlation the levels of intensity of at least one group of picture elements with the levels of intensity of an inherent corresponding reference group (paragraphs 0008-0009).

Regarding claim 36, Keller discloses a related system in which the controller (44) is adapted to identify a portion of the first image data corresponding to which there is at least a threshold correlation of the levels of intensity of the picture elements in at least one group of picture elements with the levels of intensity of the reference group of picture elements (paragraph 0068, lines 15-19).

Art Unit: 3662

Regarding claim 42, Keller discloses the claimed imaging system including means for interrogating a subject, means coupled to interrogating means for generating first image data representative of at least a portion of the subject, and means for identifying at least a first portion of the first image data having characteristics corresponding to characteristics of an object carried by the subject. (See Figures 1 and 10).

Regarding claim 43, the claimed storage media and program of commands is inherent to the invention of Keller, as it is required to carry out the method of claim 1.

Allowable Subject Matter

5. Claims 8-17, 24-33, 37-41, and 46-51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew M. Barker whose telephone number is (571)272-3103. The examiner can normally be reached on M-F, 8:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3662

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MMB

MMB



THOMAS H. TARCZA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600